

USA4441

From: Nationwide SF Court <sfcourt@nationwideasap.com>
Sent: Monday, December 3, 2018 3:00 PM
To: usa4441@fedex.com
Cc: San Francisco Dispatch
Subject: [EXTERNAL] FW: 3462468 Drop Box Filing and Chambers Copy Delivery in San Mateo Superior Court by EOD Today
Attachments: 2018.12.03 Stip re Imaging Six4Three Attorney Share location.pdf

Hello. Please print four copies of the attached. Please print to actual size.

Attn: Nationwide driver

3462468
CIV533328
Six4Three v. Facebook

CIV533328
OFS
Order sent for signature to Department
1525560



Stipulation and proposed order (8 pages)

Attach a SASE to the document, file/conform/return, advance filing fee, cc Dept 23.

Sincerely,
Michael Jay
Court Department Manager
NATIONWIDE LEGAL, LLC.
859 Harrison Street, Ste. A
San Francisco, CA 94107
P: 415-351-0400
F: 415-351-1389

The contents of this e-mail message and any attachments are intended solely for the addressee(s) named in this message. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and its attachments. Do not deliver, distribute or copy this message and/or any attachments and if you are not the intended recipient, do not disclose the contents or take any action in reliance upon the information contained in this communication or any attachments.

From: Janelle Cotton <JCotton@durietangri.com>
Sent: Monday, December 03, 2018 2:54 PM
To: Nationwide SF Court <sfcourt@nationwideasap.com>
Subject: 3462468 Drop Box Filing and Chambers Copy Delivery in San Mateo Superior Court by EOD Today

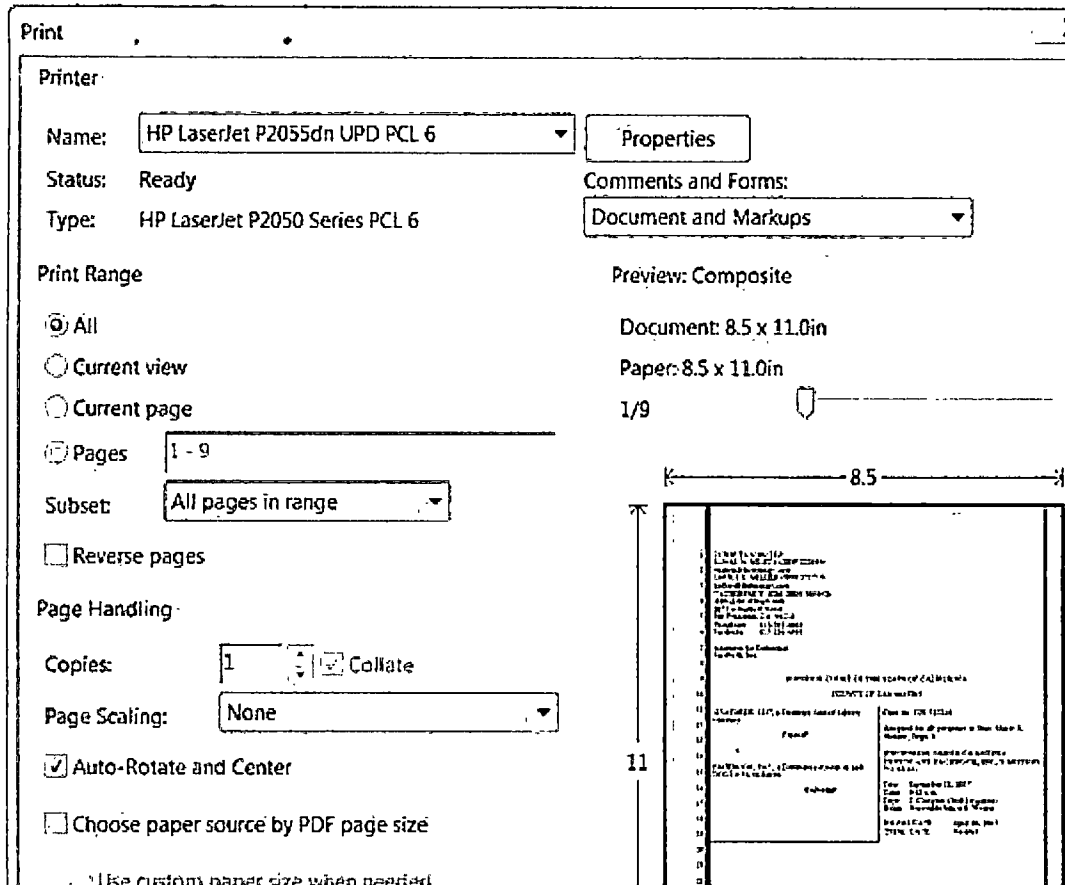
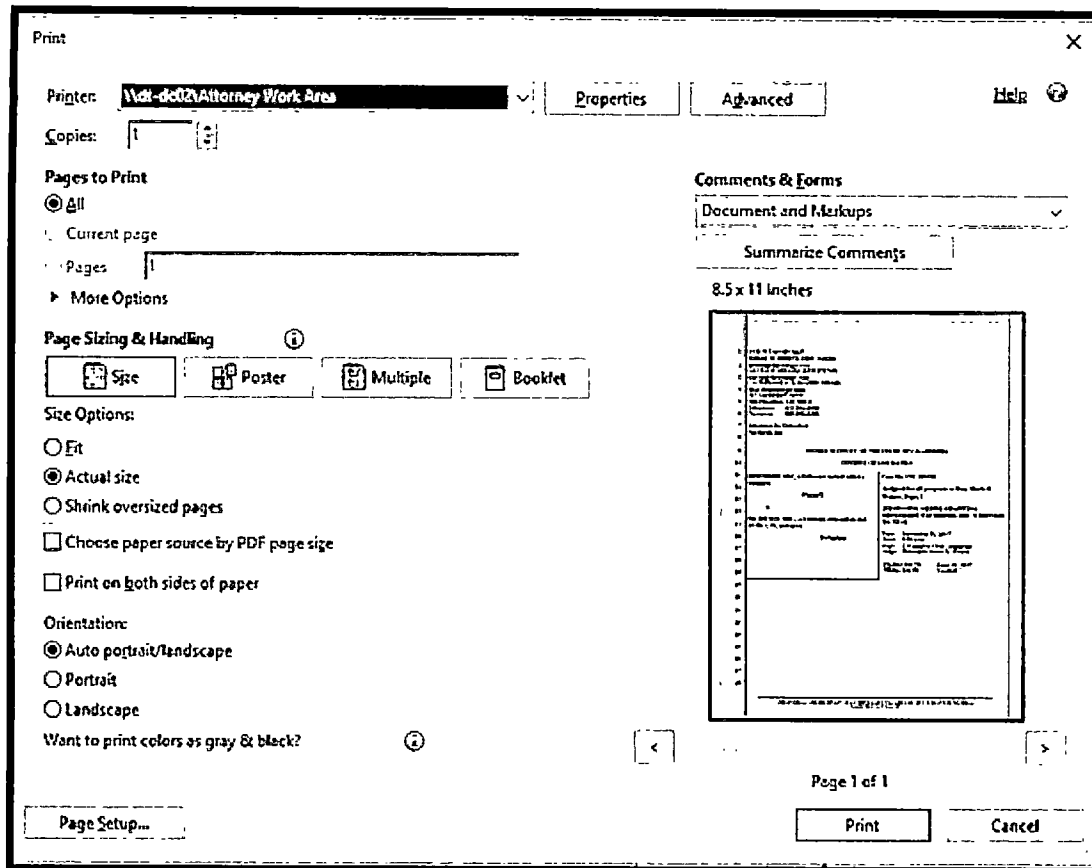
Good afternoon,

Can you please file the attached stipulation/proposed order in the drop box today and also advance the filing fee? If possible, please deliver a chambers copy of the attached document to Judge V. Raymond Swope in Department 23 by end of day today. Please print the document single-sided, stapled, and two-hole punched on the top.

Also, when printing the PDF, please go to "Size Options" and then check "Actual Size." The default setting of "Fit" will shrink the PDF image slightly when it's printed, making the text smaller than 12-point font. If your printing menu looks different, the correct option may be "Page

Scaling: None.” Please see the images below. The previous judge has flagged this issue, so please confirm that the correct option is selected.

The billing reference for this is SIX4THREE. Please let me know if you have any questions or need more information. Thanks!



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Attorneys for Plaintiff,
SIX4THREE, LLC

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN MATEO

SIX4THREE, LLC, a Delaware limited
liability company,

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation;
MARK ZUCKERBERG, an individual;
CHRISTOPHER COX, an individual;
JAVIER OLIVAN, an individual;
SAMUEL LESSIN, an individual;
MICHAEL VERNAL, an individual;
ILYA SUKHAR, an individual; and
DOES 1 through 50, inclusive,
Defendants.

Case No. CIV 533328

**Assigned For All Purposes To Hon. V.
Raymond Swope**

**STIPULATION AND [PROPOSED]
ORDER CONCERNING THE
IMAGING OF CERTAIN DATA**

FILING DATE: April 10, 2015
TRIAL DATE: April 25, 2019

1 Plaintiff Six4Three, LLC and Defendant Facebook, Inc. (collectively, the “parties”), by
2 and through their attorneys of record, stipulate as follows:

3 WHEREAS, on November 30, 2018 (the “Nov. 30th Order”), the Court ordered that cloud
4 storage locations of Thomas Scaramellino and Ted Kramer be accessed and their contents
5 preserved via imaging by Eric Friedberg of Stroz Friedberg, or his agents (the “Forensic
6 Examiner”);

7 WHEREAS, the parties disagree whether the scope of that imaging includes the contents
8 of the location titled “Six4Three(Counsel Share-NO CLIENTS)” on the cloud file storage system
9 of Gross & Klein LLP to which Mr. Scaramellino has access;

10 WHEREAS, the parties, however, agree that imaging the contents of the
11 Six4Three(Counsel Share-NO CLIENTS) location by the Forensic Examiner is appropriate; and

12 WHEREAS, Gross & Klein LLP would prefer that it work directly with the Forensic
13 Examiner to provide him the necessary access to achieve such imaging, in order to ensure that
14 Gross & Klein LLP’s interest in preserving the integrity of its cloud file storage system is
15 protected and no appearance to the contrary be created;

16 WHEREAS, while the parties understand that the Forensic Examiner has been retained by
17 Facebook, and Facebook does not object to Gross & Klein LLP coordinating directly with the
18 Forensic Examiner, such coordination does not create any relationship, legal or otherwise,
19 between Gross & Klein LLP and the Forensic Examiner;

20 NOW, THEREFORE, IT IS HEREBY STIPULATED, by and between the parties that:

21 1. Gross & Klein LLP shall, within one (1) day of the date of the corresponding
22 Order by the Court, provide the Forensic Examiner with credentials that allow the Forensic
23 Examiner the ability to temporarily access the Six4Three(Counsel Share-NO CLIENTS) location
24 on the cloud file storage system of Gross & Klein LLP, so as to provide the Forensic Examiner
25 the ability to image the contents of that location;

26 2. The Forensic Examiner shall use all diligent efforts to image the contents of the
27 Six4Three(Counsel Share-NO CLIENTS) location as quickly as possible;

3. Immediately upon the completion of such imaging, the Forensic Examiner shall notify Gross & Klein LLP and Durie Tangri, LLP;

4. Gross & Klein LLP, upon receipt of such notification, shall remove the Forensic Examiner's access to the Six4Three(Counsel Share-NO CLIENTS) location;

5. The Forensic Examiner shall not seek to access the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP using the credentials provided to him by Mr. Scaramellino;

6. Gross & Klein LLP shall immediately remove Mr. Scaramellino's access to the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP;


7. Pursuant to the Nov. 30th Order, the Forensic Examiner shall not disclose any data preserved or collected from the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP until further order of the Court; and

8. Neither the provision of access to the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP to the Forensic Examiner nor the Forensic Examiner's imaging of its contents affects any claim of privilege or protection applicable to the data accessed or imaged.

IT IS SO STIPULATED.

DATED: December 3, 2018

DURIE TANGRI LLP

By: 
Sonal N. Mehta
Joshua H. Lerner
Laura E. Miller
Catherine Y. Kim

Attorneys for Defendant Facebook, Inc.

1 DATED: December 3, 2018

GROSS & KLEIN LLP

BIRNBAUM & GODKIN

4 By 

5 Stuart G. Gross, Esq.

6 David S. Godkin (admitted *pro hac vice*)

7 James E. Kruzer (admitted *pro hac vice*)

8 Attorneys for Plaintiff

9 Six4Three, LLC

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13 GROSS & KLEIN LLP
14 THE EMBARCADERO
15 PIER 9, SUITE 100
16 SAN FRANCISCO, CA 94111
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ORDER

Based on the foregoing stipulation of parties, and good cause appearing therefor,
IT IS HEREBY ORDERED:

1. Gross & Klein LLP shall, within one (1) day of the date of this Order, provide the Forensic with credentials that allow the Forensic Examiner the ability to temporarily access the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP, so as to provide the Forensic Examiner the ability to image the contents of that location;

2. The Forensic Examiner shall use all diligent efforts to image the contents of the Six4Three(Counsel Share-NO CLIENTS) location as quickly as possible;

3. Immediately upon the completion of such imaging, the Forensic Examiner shall notify Gross & Klein LLP and Durie Tangri, LLP;

4. Gross & Klein LLP, upon receipt of such notification, shall remove the Forensic Examiner's access to the Six4Three(Counsel Share-NO CLIENTS) location;

5. The Forensic Examiner shall not seek to access the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP using the credentials provided to him by Mr. Scaramellino;

6. Gross & Klein LLP shall immediately remove Mr. Scaramellino's access to the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP;

7. Pursuant to this Court's November 30, 2018 Order, the Forensic Examiner shall not disclose any data preserved or collected from the Six4Three(Counsel Share-NO CLIENTS) location on the cloud file storage system of Gross & Klein LLP; and

8. No actions taken pursuant to this Order affects any claim of privilege or protection.

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GROSS & KLEIN LLP
THE EMBARCADERO
PIER 9, SUITE 100
SAN FRANCISCO, CA 94111

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IT IS SO ORDERED.

DATED: _____

HONORABLE V. RAYMOND SWOPE
SUPERIOR COURT JUDGE

PROOF OF SERVICE

I am a citizen of the United States and resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is 217 Leidesdorff Street, San Francisco, CA 94111.

On December 3, 2018, I served the following documents in the manner described below:

STIPULATION AND [PROPOSED] ORDER CONCERNING THE IMAGING OF CERTAIN DATA

- ☐ (BY U.S. MAIL) I am personally and readily familiar with the business practice of Durie Tangri LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.
- ☐ (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date.
- ☐ (BY FACSIMILE) I am personally and readily familiar with the business practice of Durie Tangri LLP for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.
- ☐ (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Durie Tangri LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.
- ☒ BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through Durie Tangri's electronic mail system from j cotton@durietangri.com to the email addresses set forth below.
- ☐ (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the offices of each addressee below.

On the following part(ies) in this action:

Stuart G. Gross
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*Attorneys for Plaintiff
Six4Three, LLC*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 3, 2018, at San Francisco, California.



Janelle Cotton